

## Natural Environment Referral Response - Biodiversity

<b>Application Number:</b>	DA2019/0021
<b>Responsible Officer</b>	Maxwell Duncan
<b>Land to be developed (Address):</b>	Lot 6 DP 749791 , 113 Orchard Street WARRIEWOOD NSW 2102

### Reasons for referral

This application seeks consent development on land, or within 40m of land, containing:

- All Development Applications on
- Actual or potential threatened species, populations, ecological communities, or their habitats;
- Wildlife corridors;
- Vegetation query stipulating that a Flora and Fauna Assessment is required;
- Vegetation query - X type located in both A & C Wards;

And as such, Council's Natural Environment Unit officers are required to consider the likely potential environmental impacts.

### Officer comments

Council's Natural Environment - Biodiversity Section cannot support the application due to non-compliances with the Pittwater LEP and DCP controls and the NSW *Biodiversity Conservation Act 2016*.

This application was assessed against the objectives of Pittwater LEP Clause 7.6 Biodiversity, and Pittwater 21 DCP Clause B4.18 Heathland/Woodland Vegetation, and the NSW *Biodiversity Conservation Act 2016*. The property is also mapped as bushfire prone land. Any development application must consider proposal options which are compliant with applicable Pittwater LEP and DCP controls, specifically:

- The development is designed, sited and will be managed to avoid any significant adverse environmental impact.
- Development shall retain and enhance habitat and wildlife corridors for threatened species, endangered populations, endangered ecological communities and other locally native species.
- Development shall not reduce or degrade habitat for locally native species, threatened species, endangered populations or endangered ecological communities.

The proposed development will result in a substantial loss of existing canopy trees, native vegetation and wildlife habitat on the site. The proposal as submitted does not demonstrate that the objectives of relevant Natural Environment controls have been taken into account in designing and siting the development, nor is it evident that the proponent has made an effort to avoid direct or indirect impacts to the site's biodiversity values.

Given that the existing submission does not achieve compliance with LEP and DCP controls, the applicant is encouraged to consider a redesign of the proposal. Any new proposal should incorporate a substantially reduced footprint (with reconsideration of the need for non-ancillary elements) and

demonstrate feasible measures to avoid impacts to the site's biodiversity values.

#### **Detailed comments**

The property adjoins the bushland of Ingleside Chase Reserve to the west, rural residential properties to the north and south and residential development to the east. Further south is Irrawong Reserve, and Mullet Creek creek and riparian habitat/corridor.

The proposal is for the construction of a horse arena, horse stables and day yards, alterations and additions to the existing dwelling and installation of an in ground swimming pool, and the establishment of an Asset Protection Zone (APZ). This proposal will result in the removal of at least 77 trees (as per the Statement of Environmental Effects), 2 of which are Cabbage Tree Palms proposed to be translocated and 2 of which are exempt species. The understorey vegetation loss resulting from the development footprint as well as the tree and vegetation removal for APZ establishment and construction impacts has not been quantified or assessed in the submitted Flora and Fauna Assessment (Ecological Consultants Pty Ltd, 25/09/2018).

#### *Non-compliance with biodiversity controls and legislation*

The total area of native vegetation clearing/modification has not been quantified. The immediate development will disturb approximately 0.5 ha of land, and modify additional land to establish an APZ as per the bushfire requirements detailed within the bushfire report. During the site visit, the property was observed to mostly contain intact native vegetation consisting of mature canopy trees and a managed but intact native understorey. The proposal will result in a substantial loss of native vegetation inconsistent with the controls. The property and area to be impacted may also provide habitat for threatened species, as the bushland directly connected has records of many threatened species, including, but not limited to:

- Eastern Pygmy Possum
- Grey-headed Flying Fox
- Threatened microbat species
- Powerful Owl - known nest nearby
- White-bellied Sea Eagle
- Superb Fruit Dove
- Giant Burrowing Frog
- Red-crowned Toadlet

Furthermore, the NSW *Biodiversity Conservation Act 2016* requires assessment of all local development against the vegetation clearing thresholds specified in Section 7.2 of the *Biodiversity Conservation Regulations 2017*. The submitted documentation does not address these provisions.

#### *Inadequate supporting information and considerations for supporting biodiversity information to accompany any new proposals*

There is inadequate supporting documentation regarding impacts to biodiversity values on the site. Any new proposals should be accompanied with the following reports, in accordance with Council controls and guidelines as well as assessment against the NSW *Biodiversity Conservation Act 2016*. All reports are to be clear and consistent in terms of total scale of biodiversity impacts (trees and native vegetation).

The submitted **Flora and Fauna Assessment** (or Biodiversity Development Assessment Report if triggered) must assess all biodiversity impacts including construction and APZ impacts. The Ecologist must ground-truth and map the vegetation community/ies. The survey intensity required is greater for developments with larger biodiversity impacts as per the DCP control. At a minimum, the threatened

species listed within this referral must be targeted using industry standard survey techniques during the appropriate survey season. For example, at a minimum an ultrasonic bat call detector must be deployed to determine presence of threatened microbat species; motion cameras/nesting boxes to assess presence of the Eastern Pygmy Possum; and nocturnal spotlighting to target nocturnal threatened species.

A **Biodiversity Management Plan** must be provided with the application. A Biodiversity Management Plan is required to be submitted as per Clause B4.18 of the Pittwater 21 DCP in accordance with Council's guidelines.

The submitted **Bushfire Assessment Report** must be consistent throughout in terms of APZ requirements, i.e. whether the APZ is to 25m west of the development OR is the APZ the whole of the property.

The submitted **Arborist Report** must identify the location, species, health and size of all trees within 5m of the proposed development and meet the following requirements:

- Prepared by a suitably qualified arborist with minimum AQF Level 5;
- Prepared based on the actual plans and documentation submitted in support of the DA;
- Take into account all above- and below-ground works and structures that are ancillary to the development, including the APZ;
- A tree protection and management plan with specific tree protection measures to enable safe retention of all trees proposed for retention, including mapping Tree Protection Zones, Structural Root Zones and any encroachments.

### **Referral Body Recommendation**

Recommended for refusal

### **Recommended Natural Environment Conditions:**

Nil.